

1 **Title 9. Rules on Law Practice, Attorneys, and Judges**

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3 **Division 6**

4 **Judicial Ethics Opinions**

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6 **Rule 9.80. Committee on Judicial Ethics Opinions**

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8 **(a) Purpose**

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10 The Supreme Court has established the Committee on Judicial Ethics  
11 Opinions to provide judicial ethics advisory opinions and advice to judicial  
12 officers and candidates for judicial office.

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14 **(b) Committee determinations**

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16 In providing its opinions and advice, the committee acts independently of the  
17 Supreme Court, the Commission on Judicial Performance, and all other  
18 entities. The committee will rely on the California Code of Judicial Ethics,  
19 the decisions of the Supreme Court and of the Commission on Judicial  
20 Performance, and other relevant sources in its opinions and advice.

21  
22 **(c) Membership**

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24 The committee consists of twelve members appointed by the Supreme Court,  
25 including at least one justice from a court of appeal and one member who is  
26 a subordinate judicial officer employed full-time by a superior court. The  
27 remaining members must be justices of a court of appeal or judges of a  
28 superior court, active or retired. No more than a total of two retired justices  
29 or judges may serve on the committee at one time, except that if an active  
30 justice or judge retires during his or her term, he or she will be permitted to  
31 complete his or her term. A retired justice or judge may only serve so long as  
32 he or she is not an active member of the State Bar of California and is not  
33 engaged in privately compensated dispute resolution activities.

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35 **(d) Terms**

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37 (1) Except as provided in (2), all full terms are for four years. Members  
38 may not serve more than two consecutive full terms. Members will  
39 continue to serve until a successor is appointed. Appointments to fill a  
40 vacancy will be for the balance of the term vacated. Members who are  
41 appointed to fill a vacancy for the balance of a term are eligible to serve  
42 two full terms in addition to the remainder of the term for which they  
43 were appointed.

- 1       (2) To create staggered terms among the members of the committee, the  
2 Supreme Court will appoint initial members of the committee as  
3 follows:  
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5       (A) Three members each to serve a term of five years. The Court may  
6 reappoint these members to one full term.  
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8       (B) Three members each to serve a term of four years. The Court may  
9 reappoint these members to one full term.  
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11       (C) Three members each to serve a term of three years. The Court  
12 may reappoint these members to one full term.  
13  
14       (D) Three members each to serve a term of two years. The Court may  
15 reappoint these members to one full term.  
16  
17       (3) Committee members may not simultaneously serve as members of the  
18 Commission on Judicial Performance or the California Judges  
19 Association’s Judicial Ethics Committee. If a member of the committee  
20 accepts appointment to serve on one of these entities, that member will  
21 be deemed to have resigned from the committee and the Supreme Court  
22 will appoint a replacement.  
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24       **(e) Powers and duties**  
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26       The committee is authorized to provide ethics advice to judicial officers and  
27 candidates for judicial office, including formal written opinions, informal  
28 written opinions, and oral advice. Specifically, the committee is authorized  
29 to:  
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- 31       (1) Issue formal written opinions, informal written opinions, and oral  
32 advice on proper judicial conduct under the California Code of Judicial  
33 Ethics, the California Constitution, statutes, and any other authority  
34 deemed appropriate by the committee.  
35  
36       (2) Make recommendations to the Supreme Court for amending the Code  
37 of Judicial Ethics or these rules;  
38  
39       (3) Make recommendations regarding appropriate subjects for judicial  
40 education programs; and  
41  
42       (4) Make other recommendations to the Supreme Court as deemed  
43 appropriate by the committee or as requested by the Court.

1 **(f) Referrals to California Judges Association’s Judicial Ethics Committee**

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3 The committee may adopt a revocable policy of referring requests for oral  
4 advice, with conditions and exceptions as approved by the committee, to the  
5 California Judges Association’s Judicial Ethics Committee.  
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7 **(g) Chair and vice-chair**

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9 The Supreme Court will appoint a chair, who will serve a term of two years.  
10 The Supreme Court may reappoint the chair. The chair may not serve more  
11 than two terms as chair. The Supreme Court will also appoint a vice-chair  
12 from the members of the committee. The chair is authorized to call meetings  
13 as needed, and to otherwise coordinate the work of the committee.  
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15 **(h) Confidentiality**

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17 Communications to and from the committee are confidential except as  
18 described herein. Encouraging judicial officers and candidates for judicial  
19 office to seek ethics opinions and advice from the committee will promote  
20 ethical conduct and the fair administration of justice. Establishing the  
21 confidentiality of committee proceedings and communications to and from  
22 the committee is critical to encourage judicial officers and candidates for  
23 judicial office to seek ethics opinions and advice from the committee. The  
24 necessity for preserving the confidentiality of these proceedings and  
25 communications to and from the committee outweighs the necessity for  
26 disclosure in the interest of justice. Therefore, to promote ethical conduct by  
27 judicial officers and candidates for judicial office and to encourage them to  
28 seek ethics opinions and advice from the committee, the following  
29 confidentiality requirements, and exceptions, apply to proceedings and other  
30 matters under this rule:  
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- 32 (1) Notwithstanding any other provision of law, and with the exception of  
33 formal written opinions and summaries of informal written opinions  
34 and oral advice, all opinions, inquiries, replies, circulated drafts,  
35 records, documents, writings, files, communications with staff, and  
36 proceedings of the committee are confidential. All communications,  
37 written or verbal, from or to the person or entity requesting an opinion  
38 or advice are deemed to be official information within the meaning of  
39 the California Evidence Code. In addition, all communications and  
40 documents regarding opinions or advice of the California Judges  
41 Association forwarded by the California Judges Association to the  
42 committee are deemed to be confidential information.

- 1       (2) Members of the committee or its staff may not disclose outside the  
2       committee or its staff any confidential information, including  
3       identifying information, obtained by the committee or its staff  
4       concerning an individual whose inquiry or conduct was the subject of  
5       any communication with the committee or its staff.  
6  
7       (3) A judicial officer or candidate for judicial office may waive  
8       confidentiality; any such waiver must be in writing. If the judicial  
9       officer or candidate making the request for an opinion or advice waives  
10      confidentiality or asserts reliance on an opinion or advice in judicial or  
11      attorney discipline proceedings, such opinion or advice no longer is  
12      confidential under these rules. Notwithstanding any waiver, committee  
13      deliberations and records are confidential.  
14

15      **(i) Opinion requests**  
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- 17      (1) The committee may issue formal written opinions on any subject it  
18      deems appropriate. Any person or entity may suggest to the committee,  
19      in writing, topics to be addressed in a formal written opinion.  
20  
21      (2) Only judicial officers and candidates for judicial office may request  
22      informal written opinions and oral advice.  
23  
24      (3) A judicial officer or candidate for judicial office requesting a written  
25      opinion, formal or informal, must submit the request in writing,  
26      including by electronic mail. The request must be in a form approved  
27      by the committee and must describe the facts and discuss the issues  
28      presented in the request. The identity, organizational affiliation, and  
29      geographic location of persons requesting opinions are confidential.  
30  
31      (4) A judicial officer or candidate for judicial office requesting oral advice  
32      may communicate in person, in writing (including by electronic mail),  
33      or by telephone to committee staff or any member of the committee.  
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35      (5) A judicial officer or candidate for judicial office requesting an opinion  
36      or advice must disclose to the committee whether the issue that is the  
37      subject of the inquiry is also the subject of pending litigation involving  
38      the inquiring judicial officer or candidate or a pending Commission on  
39      Judicial Performance or State Bar disciplinary proceeding involving the  
40      inquiring judicial officer or candidate.  
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1 **(j) Consideration of requests**

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- 3 (1) The committee will determine whether a written request for an opinion  
4 should be resolved with a formal written opinion, an informal written  
5 opinion, oral advice, or any combination thereof. The committee may  
6 decline to issue an opinion or advice.
- 7
- 8 (2) Eight members must vote affirmatively to adopt a formal written  
9 opinion. After the committee authorizes a formal written opinion and  
10 before it becomes final, it will be posted in draft form on the committee  
11 Web site and made available for public comment for at least 45 days,  
12 unless the committee in its discretion decides such an opinion should  
13 be issued in final form in less time or with no prior notice. After the  
14 public comment period has expired, the committee will decide whether  
15 the opinion should be published in its original form, modified, or  
16 withdrawn. Eight members must vote affirmatively to modify or  
17 withdraw a formal written opinion.
- 18
- 19 (3) Informal written opinions and oral advice will be decided by vote of the  
20 committee members. The committee will adopt procedures concerning  
21 the number of votes required to issue an informal written opinion or  
22 oral advice.
- 23
- 24 (4) The committee will adopt procedures concerning the handling and  
25 determination of requests for opinions or advice.
- 26
- 27 (5) The committee will inform the inquiring judicial officer or candidate for  
28 judicial office that he or she must disclose all relevant information and  
29 that any opinion or advice issued by the committee is based on the  
30 premise that the inquiring judicial officer or candidate has disclosed all  
31 relevant information.
- 32
- 33 (6) The committee will confer in person, in writing, including by electronic  
34 mail, by telephone, or by videoconference as often as needed to  
35 conduct committee business and resolve pending requests.
- 36

37 **(k) Opinion distribution**

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- 39 (1) The committee will, upon final approval of a formal written opinion,  
40 ensure distribution of the opinion, including to the person or entity who  
41 requested the opinion, all California judicial officers, and other  
42 interested persons.

1       (2) The committee's informal written opinions and written confirmation of  
2       oral advice will, upon approval by the committee, be provided to the  
3       inquiring judicial officer or candidate for judicial office.

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5       (3) The committee will post all formal written opinions on the committee's  
6       Web site. The committee may post summaries of its informal written  
7       opinions and of oral advice on the committee's Web site.

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9       (4) The committee will maintain records of committee determinations and  
10      opinions at the committee's office.

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12    **(l) Withdrawn, modified, and superseding opinions**

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14      The committee may withdraw, modify, or supersede an opinion at any time.

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16    **(m) Internal operating rules**

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18      The committee will adopt procedures, subject to approval by the Supreme  
19      Court, to implement this rule.

20  
21    **(n) Web site, e-mail address, and toll-free telephone number**

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23      The committee will maintain a Web site, e-mail address, and toll-free  
24      telephone number.